

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

Abdul-Aziz Rashid Muhammad,

Case No. 19-CV-1750 (ECT/DTS)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

United States (FTCA),

Defendant.

---

In an order dated August 20, 2019, this Court ordered Plaintiff Abdul-Aziz Rashid Muhammad to pay this action's \$400.00 filing fee. See Order 2–3, ECF No. 4. The Court granted a request by Muhammad for an extension of time in which to pay the fee; that order made the deadline October 9, 2019. See Order 1, ECF No. 6. The Court specifically warned that if Muhammad did not pay the filing fee by that date, the Court would recommend that this action be dismissed without prejudice for failure to prosecute. See *id.*; Fed. R. Civ. P. 41(b).

That deadline passed, however, the Court granted a second request for an extension of time to pay the filing fee filed on October 23, 2019. That order made the deadline November 30, 2019. See October 24, 2019 Order, ECF No. 9.

That deadline also passed, and Muhammad filed yet a third motion for an extension of time to pay the filing fee. In his motions, Muhammad states that his “on or about the 15th of December 2019 that [his brother] would mail the entire filing fee to the Court forthwith” and requests until that date to pay the filing fee. The filing fee has not been paid for this action as the date of this order. Accordingly, this Court now

recommends, in accordance with its prior orders, that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, the Court **RECOMMENDS** that:

1. Plaintiff's motion for an extension of time to pay the filing fee be denied.
2. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: January 9, 2020

s/David T. Schultz  
DAVID T. SCHULTZ  
United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).